ON THE LAW OF NEGLIGENCE, Vol. I, pg. 980; and see particularly the following cases: *Goodsell* v. *Taylor* (1889), 41 Minn. 207, 42 N. W. 873; *Treadwell* v. *Whittier* (1889), 80 Cal. 574, 22 Pac. Rep. 266; *Marker* v. *Mitchell* (1893), 54 Fed. Rep. 637 and (1894), 62 Fed. Rep. 140; *Kentucky Hotel Co.* v. *Camp* (1895), 97 Ky. 424, 30 S. W. Rep. 1010; *Southern Bldg. & Loan Assn.* v. *Lawson* (1896), 97 Tenn. 367, 37 S. W. Rep. 86, 56 Am. St. Rep. 804 (with extended note); *Hartford Deposit Co.* v. *Solitt* (1898), 172 Ill. 222, 50 N. E. Rep. 178; and *Edwards* v. *Burke* (1904), 78 Pac. Rep. (Wash.) 610. Like the principal case, however, these cases all agree that the owner of a passenger elevator is not an insurer of the safety of its passengers.

CARRIERS—OWNERS OF PASSENGER ELEVATORS—LIABLE AS COMMON CARRIERS.—Plaintiff was injured by stepping through an open and unguarded entrance to an elevator shaft in defendant's store, the elevator being for the use of defendant's customers. Plaintiff was a customer of defendant and had been directed by defendant to take the elevator to the second floor where he could make certain purchases. *Held,* that these facts established the relation of carrier and passenger. *Morgan* v. *Saks* (1905), — Ala. —, 38 So. Rep. 848.

This case was decided but a few months before *Edwards* v. *Manufacturers' Bldg. Co.* (1905), 61 Atl. Rep. (R. I.) 646, and follows the weight of authority, while the latter case holds to the contrary rule. See preceding note.

CONSTITUTIONAL LAW—INDETERMINATE SENTENCE—INVASION OF EXECUTIVE OR JUDICIAL FUNCTIONS.—A provision in Shannon's (Tennessee) Code, § 7423, that "The board of workhouse commissioners may, on recommendation of the superintendent, deduct, for good conduct, a portion of the time for which any person has been sentenced, or a portion of the fine," *held* unconstitutional as being a delegation of legislative authority and in derogation of the governor's pardoning power, and the judicial authority of the courts. *Fite, Superintendent of County Workhouse* v. *State ex rel Snider* (1905), — Tenn. —, 88 S. W. Rep. 941.

It is universally held, and this case admits, that statutes defining credits for good behavior and operating only upon sentences subsequently pronounced, take effect as entering into the sentence, and are not an invasion of the prerogative of the governor, nor a vesting of judicial power in the prison board. *Opinion of Justices,* 13 Gray (Mass.) 618; *Ex parte Nokes,* 6 Utah 106; *In re Walsh,* 87 Mich. 466. But since the statute operates on the sentence and not on the criminal, it cannot affect those sentenced before its passage. *State* v. *McClellan,* 87 Tenn. 52; *In re Canfield,* 98 Mich. 644. Indeterminate sentence laws authorizing the prison commissioners to parole at discretion prisoners who have served a certain part of the term are upheld, by the weight of authority, on the ground that the convicts are still in custody, only the place and nature of the imprisonment being changed (*State* v. *Peters,* 43 Ohio St. 629), or on the broader ground that it is not a pardoning power, since it is not arbitrary, nor is it judicial, since it has nothing to do with the adjudging of innocence or guilt, *Conlon's Case,*

148 Mass. 168; *Com.* v. *Brown,* 167 Mass. 144; *People* v. *Reformatory,* 148 Ill. 413. On this latter ground laws requiring the judge to pass an indeterminate sentence on every convict and giving power to the prison board to release, not only on parole, but absolutely as well, have been sustained, *People* v. *Warden of Sing Sing Prison,* 78 N. Y. Supl. 907; *People* v. *Adams,* 176 N. Y. 351; *Miller* v. *State,* 149 Ind. 607; *Skelton* v. *State,* 149 Ind. 641. Such a law has been held to apply to prisoners already serving, *Davis* v. *State,* 152 Ind. 34. Contra, and better authority, *Murphy* v. *Commonwealth,* 172 Mass. 264. Sometimes the law required, for a final release, the acquiesence of the governor, or the governor and convicting judge. *George* v. *People,* 167 Ill. 447. Some jurisdictions invalidate all such laws, on the ground that a parole is not to be distinguished from a commutation or a conditional pardon and a release is equivalent to a full pardon, either of which are in the governor's sole prerogative. *Ex parte Wadleigh,* 82 Calif. 518; *State* v. *State Board of Corrections,* 16 Utah, 478; *People* v. *Cummings,* 88 Mich. 249. The federal Supreme Court has refused to take jurisdiction, the relation of departments in the states being matter of state concern only, and not involving "due process of law," *Adams* v. *New York* (see above), 192 U. S. 585. In general, by weight of authority, a law providing for mere parole by the prison board is valid; and also, probably, one providing for absolute release, if it operates only after the pronouncement by the trial judge of a maximum-minimum sentence, especially if, in addition, consent by the governor or trial judge are conditions of the release. Where, as in the case under discussion, however, the workhouse commissioners are given sole and arbitrary power to release, regardless of the sentence originally pronounced, the law would be generally held unconstitutional. In Michigan, where any sort of indeterminate sentences had been declared unconstitutional (*People* v. *Cummings,* above), a constitutional amendment authorizing them was adopted in 1902. The new law (Pub. Acts 1903, p. 168) provides that every sentence, with certain exceptions, shall be indeterminate, and that the governor, on authorization by the pardon board, may release on parole, and, in case of subsequent good behavior, absolutely.

CONSTITUTIONAL LAW—OBLIGATION OF CONTRACT—STOCKHOLDERS' LIABILITY TO CREDITORS.—Statute provided the liability of creditors for double the amount of stock held by them is contractual, which liability is not a corporate asset, but a debt due directly to creditors. *Held,* that a later statute of the legislature making such liability an asset of the corporation, repealing the remedy at law allowing suit by each creditor, and substituting therefor a bill in Equity on behalf of all creditors, is unconstitutional as impairing the obligation of contracts. *Myers* v. *Knickerbocker Trust Co.* (1905), (C. C. A. Third Circuit Md.), 139 Fed. Rep. 111.

This case involves three important questions: 1st. Is liability of stockholders under such a statute contractual? In *Norris* vs. *Wrenchall* (1871), 34 Md. 492, it was decided that the liability of a stockholder under the statute was not in the nature of a penalty, but is a contractual liability arising out of the mutual agreement of the parties. In *Hammond* v. *Straus* (1879), 53 Md. 1. the court went further and stated, that liability continued even